

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Lanette Rae Heitzman,

Plaintiff,

v.

ORDER

Civil No. 12-2274 (MJD/LIB)

Scott Engelstad et al.,

Defendants.

David Izek, Altman & Izek, Counsel for Plaintiff.

Daniel P. Kurtz and Anna L. Yunker, Everett & VanderWiel, P.L.L.P.,
Counsel for Defendants.

This matter is before the Court on Plaintiff's appeal of Magistrate Judge Leo Brisbois's Order dated July 11, 2013 [Doc. No. 44] granting in part non-party movant Rosalyn Engelstad's motion to quash [Doc. No. 24] and granting in part Defendants' motion for a protective order. [Doc. No. 26] Defendants ask that the Court affirm the July 11, 2013 Order, but to strike footnote 10 concerning marital privilege, as the discussion in the footnote may have negative consequences later in this litigation.

The Court must modify or set aside any portion of the Magistrate Judge's

Order found to be clearly erroneous or contrary to law. See 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); Local Rule 72.2(a). Based on a review of the record and the submissions of the parties, the Court concludes that the Magistrate Judge's Order is neither clearly erroneous or contrary to law. Because the discussion of marital privilege in footnote 10 is clearly dictum, the Court need not address Defendants' request to strike at this time.

IT IS HEREBY ORDERED that the Order dated July 11, 2013 [Docket No. 44] is AFFIRMED.

Date: August 26, 2013

s/ Michael J. Davis
Michael J. Davis
Chief Judge
United States District Court

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